



NORTH CAROLINA

State Board of Elections

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NUMBERED MEMO 2016-15

TO: County Boards of Elections
FROM: Kim Strach, Executive Director
RE: Same-day Registration during One-Stop Early Voting
DATE: September 22, 2016

In June 2016, the U.S Court of Appeals for the Fourth Circuit rejected changes to elections laws that would have ended the process known as “same-day registration” at one-stop early voting locations under G.S. § 163-82.6A. This Numbered Memo provides guidance regarding the implementation of same-day registration processes for the early voting.

1. Statute Book Supplement

The 2016 edition of *Election and Related Laws and Rules of North Carolina* published by Thompson Reuters omits the now-active statute regarding early voting: G.S. § 163-82.6A. Please print and insert Appendix A at page 113 of the 2016 edition or at page 110 of the 2013 edition.

2. Proof of Residence

Same-day registrants must attest to their eligibility and provide proof of residence. A voter attests to her eligibility by completing a Voter Registration Application and affixing her signature under penalty of a Class I felony, after which she must prove her residence by presenting any of the following showing the voter’s current name and current address:¹

- North Carolina driver’s license or other photo identification issued by a government agency;
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document showing the voter’s name and address;² OR
- Documents authorized and reviewed in a manner established by this agency.

(a) North Carolina driver’s license or other government-issued photo identification

Please be careful not to extend limitations that once governed photo identifications requirements under S.L. 2013-381 (HB-589), which do not apply to the forms of identification acceptable for purposes of same-day registration. Any government-issued photo identification card is acceptable—not only the types permitted under HB-589—so long as the card bears the registrant’s current name and current address. The North

¹ See G.S. § 163-82.6A(b)(2).

² See G.S. § 163-166.12(a)(2).

Carolina driver's license or other government-issued photo identification may be expired, so long as the card bears the registrant's current name and current address.

Standards previously established to evaluate the photograph on the identification card, while no longer required, remain instructive for an election official working to ensure that the photograph depicts the voter. Specifically, officials should make their "determination based on the totality of the circumstances, construing all evidence, along with any explanation or documentation voluntarily proffered . . . in the light most favorable" to the voter, while never rejecting a photo identification due to perceived differences due changes in weight; hair features; facial hair; complexion or skin tone; cosmetics or tattooing; apparel, including the presence or absence of eyeglasses; characteristics arising from a perceptible medical condition, disability, or aging; photographic lighting conditions or printing quality.³

(b) Copy of a current utility bill, bank statement, government check, paycheck, or other government document showing the voter's name and address

Same-day registrants may prove their residency by presenting a copy of one of the above-referenced documents showing the voter's name and address.⁴ The voter may present either the original document or a copy of that document in hardcopy or electronic format. A non-exhaustive list of acceptable documents is provided below:

- utility bill (including mobile service providers)
- private bank statement
- property tax statement issued by a governmental agency
- vehicle registration issued by a governmental agency
- government check, including any Social Security, employment, pension, benefit, or reimbursement check from any government entity
- government invoice, statement, or receipt
- public housing identification card, lease, or rental statement
- public educational institution documents, including any student card, transcript, tuition statement, invoice, or receipt issued by any public educational institution
- government insurance plan card, drug discount card, or drug prescription issued by a government care facility (including military facilities)
- discharge certificates, pardons, or other government documents issued in connection with the resolution of a criminal case, indictment, sentence, or other matter
- public transportation authority cards, invoices, receipts or correspondence
- public assistance or disability agency documents
- documents issued by any government shelter, or temporary/transitional housing facility
- drug prescription issued by a government doctor or other governmental health care provider

³ See 08 NCAC 17.0101(c)(3).

⁴ The Help America Vote Act of 2002 prescribed minimal proof of residency requirements, which the legislature has mirrored in state law. See 52 U.S.C. § 21083(b)(2)(A)(i)(II); see also G.S. § 163-166.12(a)(2).

Our agency has determined that the document must have been issued no earlier than three (3) months before the date on which it is presented by the registrant in order to be considered “current”. One-stop officials should count back three months from the date the voter appears to vote, not three months from Election Day.

(c) Documents authorized and reviewed in a manner established by this agency.

It has come to our attention that practices may vary between counties regarding documents that may be used to prove the residency of college and university students who reside in campus housing. County officials must be uniform in their effort to comply with both federal and state election laws permitting students to register to vote from their campus residence, even if the student does not plan to remain indefinitely.⁵

Students living in a campus housing facility, such as a dormitory, may have particular difficulty producing a qualifying document displaying their on-campus address. To address this specific challenge, our agency has provided guidance authorizing the use of certain documents from the state’s public and private schools, colleges, and universities.

A student residing in a campus housing facility may prove his residency by presenting, in either hardcopy or electronic format, any document originating with the educational institution and containing the student’s name and on-campus housing address or facility name (e.g., “Jones Hall”). Acceptable documents may be issued by either public or private educational institutions and include correspondence, invoice, transcript, or a print-out or screen shot from any official registration or housing portal displaying the student’s name and on-campus housing address.

Alternatively, the educational institution may voluntarily provide elections officials with a list of all students residing in a particular campus housing facility, which may be referenced in conjunction with a valid student photo identification card presented by the registrant. Any such list must be current at the time of use and must display individual facility information for each on-campus resident to ensure the student is properly registered at the appropriate address. Lists may not be used if they do not differentiate between residents at different campus housing facilities. Educational institutions may omit the names of individuals known to be ineligible based on citizenship status (e.g., exchange students holding student visas). The roster may be used as proof of a student’s on-campus residency only if the registrant presents a valid student photo identification card showing the student’s current name as it appears on the registration roster.

3. Verification of address by mail for same-day registrants.

The State Board of Elections is keenly aware that a number of same-day registrants fail mail verification *after* the county has completed its canvass. It is imperative that counties work diligently to issue verification mailings and log returned mail throughout the one-stop early voting period. The State Board plans to review mailing logs associated with same-day registrants, and it is likely independent organizations may also review relevant tables exported from the Statewide Electronic Information Management System as a matter of public record.

⁵ See generally 52 U.S.C. §§ 10101 and 10701; G.S. § 163-57(11); *Symm v. United States*, 439 U.S. 1105 (1979); *Lloyd v. Babb*, 296 N.C. 416 (1979).

APPENDIX A

§ 163–82.6A. In-person registration and voting at one-stop sites

(a) **Who May Register in Person.** — In accordance with the provisions in this section, an individual who is qualified to register to vote may register in person and then vote at a one-stop voting site in the person's county of residence during the period for one-stop voting provided under G.S. 163–227.2. For purposes of this section, a one-stop voting site includes the county board of elections office, if that office is used for one-stop voting.

(b) **Both Attestation and Proof of Residence Required.** — To register and vote under this section, the person shall do both of the following:

- (1) Complete a voter registration form as prescribed in G.S. 163–82.4, including the attestation requirement of G.S. 163–82.4(b) that the person meets each eligibility requirement. Such attestation is signed under penalty of a Class I felony under G.S. 163–275(13); and
- (2) Provide proof of residence by presenting any of the following valid documents that show the person's current name and current residence address: a North Carolina drivers license, a photo identification from a government agency, or any of the documents listed in G.S. 163–166.12(a)(2). The State Board of Elections may designate additional documents or methods that suffice and shall prescribe procedures for establishing proof of residence.

(c) **Voting With Retrievable Ballot.** — A person who registers under this section shall vote a retrievable absentee ballot as provided in G.S. 163–227.2 immediately after registering. If a person declines to vote immediately, the registration shall be processed, and the person may later vote at a one-stop voting site under this section in the same election.

(d) **Verification of Registration; Counting of Ballot.** — Within two business days of the person's registration under this section, the county board of elections in conjunction with the State Board of Elections shall verify the North Carolina drivers license or Social Security number in accordance with G.S. 163–82.12, update the statewide registration database and search for possible duplicate registrations, and proceed under G.S. 163–82.7 to verify the person's address. The person's vote shall be counted unless the county board determines that the applicant is not qualified to vote in accordance with the provisions of this Chapter.

(e) **Change of Registration at One-Stop Voting Site.** — A person who is already registered to vote in the county may update the information in the registration record in accordance with procedures prescribed by the State Board of Elections, but an individual's party affiliation may not be changed during the one-stop voting period before any first or second partisan primary in which the individual is eligible to vote.

(f) **Voting in Primary.**—Any person who will become qualified by age to register and vote in the general election for which a partisan or nonpartisan primary is held, even though not so qualified by the date of the primary, may register for the primary and general election prior to the primary and then vote in the primary and general election after being registered in accordance with the provisions of this section.